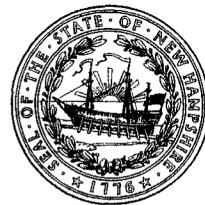




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

April 14, 2005

Aaron Shortt
PO Box 348A
Rumney, NH 03266

Re: Docket No. AF 04-104 – Aaron Shortt

Dear Mr. Shortt:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on April 13, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael Salafani,
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
James Martin, DES Public Information Officer
Tammy Calligandes, DES WMD

Aaron Shortt
Box 348A
Rumney, NH 03266

Re: Shortt's Garage, Route 25, Rumney, NH
UST ID # 0-110220

**ADMINISTRATIVE FINE
No. AF 04-104**

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and Shortt's Garage parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Shortt's Garage ("Shortt's") is the registered facility owner of two underground storage tank ("UST") systems at the Shortt's Garage ("the Facility"), further identified as UST # 0-110220, located on real property at Route 25, Rumney, NH 03266 ("the Property").
3. On December 9, 2004, the Division issued Notice of Proposed Administrative Fine No. AF 04-104 ("the Notice") to Shortt's seeking fines totaling \$1,000 for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
4. Specifically, the Notice cited Shortt's for violating Env-Wm 1401.11(a) by failing to maintain accurate stock inventory records for two UST systems in accordance with RSA 146-C:5 and Env-Wm 1401.11. Pursuant to Env-C 607.05(a) the Division sought a fine of \$1,000.
5. In order to settle this matter, the Division and Shortt's have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
6. Of the proposed fine, in the amount of \$1,000, 20% or \$200 shall be suspended due to the Shortt's history of compliance at this facility. An additional 20% or \$200 shall be suspended due to the Shortt's good faith effort to return this facility to compliance. An additional 20% or \$200 shall be suspended due to the facility's small business status.
7. The suspended portion of the proposed fine, in the amount of \$600 is contingent upon Shortt's returning the facility to compliance by conducting acceptable inventory monitoring on all UST systems, and submitting one month's worth of completed inventory monitoring to DES, and maintain the subject UST facility in compliance with Env-Wm 1401 for a period of two years from the date of the execution of this document. If Shortt's fails to maintain compliance during the two-year period, the suspended portion of the fine, in the amount of \$600, shall become due and payable immediately. If Shortt's maintains compliance for the prescribed two-year period, the

the suspended portion of the fine shall be waived.

8. Shortt's agrees to pay the remaining \$400 upon execution of this agreement by Aaron Shortt.

9. Payment under Paragraph #8 and any payment that becomes due pursuant to Paragraph #7 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

10. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

11. By executing this Agreement, Shortt's waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

12. The effective date of this Agreement will be the date on which it is signed by Aaron Shortt, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

13. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,
Shortt's Garage

4-4-05
Date

COPY
Aaron Shortt
By: Aaron Shortt, Owner

DES Waste Management Division

4/13/05
Date

COPY
Anthony P. Giunta
Anthony P. Giunta, P.G., Director

This Motion to Accept Settlement agreement is granted this 13th day of April, 2005.

COPY
Michael P. Nolan
Michael P. Nolan, Commissioner
Department of Environmental Services